



STATE OF WISCONSIN EDUCATIONAL APPROVAL BOARD

SSA1 TO SENATE BILL 174

EAB MODERNIZATION

TESTIMONY

by

David C. Dies, Executive Secretary
Educational Approval Board

Senate Committee on Education

March 6, 2008

Good morning. Chairman Lehman and members of the committee, I appreciate the opportunity to provide testimony in support of Senate Substitute Amendment 1 to Senate Bill 174. My name is David Dies and I am the executive secretary for the EAB. Although I will limit my testimony to the following written remarks in the interest of time, I am happy to respond to any questions you may have regarding the bill.

SB 174 contains numerous provisions that repeal, renumber, recreate and modify existing statutory authority. However, when you boil it down, the bill is really about one thing – improving students' lives by helping create good schools. SSA1 to SB 174 reflects changes agreed to by the EAB in response to concerns raised largely by the Department of Public Instruction.

It is important to understand that SB 174 is part of a comprehensive agenda that is designed to change the EAB's regulatory model of approving private postsecondary schools from one that is based solely on compliance to one that is also based on institutional effectiveness. This new regulatory model is intended to promote quality, organizational accountability, and continuous improvement for schools, as well as the EAB. SB 174 creates the statutory framework for this new regulatory model.

Beyond the statutory changes, other elements of the EAB's modernization agenda include such items as measuring student outcomes, creating an electronic annual school renewal system, redesigning the EAB's school visit process, establishing data verification protocols, revising school and program approval application materials, and modifying our database so information can be made to available to consumers on our website more easily.

The students – most of whom are working adults – who enroll in an EAB-approved school do so because they think the education and training provided will help them improve their lives. Maybe, they want a new career or to advance in their existing career. Maybe, they want a better job with better pay. Or maybe, they simply want to work at their passion.

The types of EAB-approved schools in which adult students enroll – such as, Schneider Training Academy, Fox Valley School of Massage, Nashville Auto-Diesel College, Rinehart School of Taxidermy, Weekend Dental Assistant School, New Horizons Computer Learning Centers, Herzing College, Upper Iowa University, and the University of Phoenix – offer the way to a better life, a way for these students to achieve their dreams.

While the proprietary school sector has changed dramatically during the past 10 to 15 years, and continues to rapidly change as it adjusts to new marketplace realities, the EAB fully realizes the magnitude of its regulations on the lives of Wisconsin's working adults and wants to do all that it can to shape its regulatory design so it helps the schools, so they can in turn help the students who enroll in this dynamic sector.

Traditionally, regulatory agencies like the EAB have accomplished their statutory responsibility of protecting consumers by ensuring schools comply with certain rules and regulations, by monitoring schools for compliance, and by resolving student complaints where compliance has failed.

Most regulators have this "compliance and monitoring" mentality. This means regulators tell the regulated what they should do, then the regulated acquiesce to the rules and regulations, and lastly, the regulator monitors for compliance. This oversight model, however, can only achieve minimum compliance with a set of rules. It does not promote a higher level of quality,

excellence, self-improvement, or value-added productivity. That's because it is a model imposed on others rather than a method focused on the school advancing itself and being held accountable for results.

In reviewing its organizational structure and systems, the EAB was focused on four critical questions:

- How can EAB's oversight process help schools improve over time and lead to better student satisfaction and learning results?
- Can there ever be a sustained and rational school improvement process without a defined institutional plan, which sets goals, creates action steps, measures results and evaluates progress?
- How do the EAB's school approval, annual renewal, and school visit processes need to be redesigned to focus on results and to encourage and support school advancement?
- What results data would schools and the EAB need to collect and analyze so schools are accountable for student outcomes?

Good reasons exist for the EAB to move towards a regulatory model that promotes institutional effectiveness. First, the EAB believes the best way to protect students is to enhance the schools and their programs by holding schools accountable for student results. Secondly, the EAB believes there needs to be a cooperative working relationship with schools for institutional effectiveness to be successful. And lastly, the EAB believes schools must develop an internal capacity for making decisions based on data, for satisfying students, and for continuous improvement.

Guided by using its strategic plan, sound organizational principles, and the realities of this educational sector, SB 174 has been developed to modernize the EAB's statutory provisions so that it can protect consumers and hold schools accountable for student results.

SB 174 focuses on student results – knowing what happens to students who enroll in an EAB-approved school; accountability – holding schools responsible for those results; and transparency – disseminating information about results so it can be used by others to make informed choices.

Each year your office receives a copy of the Directory of Private Postsecondary Schools approved by the EAB. Not only do we distribute a printed version of this document to a host of individuals such as high school guidance and job training counselors, but we make the information available in a searchable format on our website.

The Directory (and the information made available on our website) is representative of what the EAB is about. It contains student information like who enrolls, who graduates, how many get jobs, and were students satisfied and did the program meet their expectations? It holds schools accountable by creating a context in which this information can be used by school officials and EAB staff to help schools improve. And, the EAB makes the information transparent by disseminating it broadly.

In materials distributed to your offices, you were provided a briefing paper explaining the EAB's modernization efforts in detail. This included a detailed section-by-section synopsis of the bill's changes, as well as implementation information regarding the EAB's modernization agenda, and would be happy to address the specifics with you.

Thank you.



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by

Michael Cooney, Chair
Educational Approval Board

Senate Committee on Education

March 6, 2008

Good morning. Chairman Lehman and members of the committee, I appreciate the opportunity to provide testimony today in support of Senate Substitute Amendment 1 to Senate Bill 174. My name is Michael Cooney and I have the honor of being the current chair of the Educational Approval Board (EAB).

For those of you who may be unfamiliar with the EAB, it is an independent state agency responsible for both protecting Wisconsin students and supporting quality educational programs by regulating for-profit and non-profit postsecondary schools, colleges and universities that offer degree and non-degree programs.

The Board currently oversees 153 institutions serving more than 45,000 adults annually in 700 or so programs. These programs include pet grooming, bartending, auto technician, computer information, English as a second language, massage therapy, truck driving, and many types of bachelor's degrees, master's degrees, MBAs and PhDs.

These schools, colleges and universities add considerably to the educational capacity of the state without any cost to the taxpayer and in most cases these schools are taxing paying entities.

It should be further noted that the Educational Approval Board is totally supported by fees paid by the respective schools and receives no support of the state.

The origins of the EAB began with the passage of the GI Bill in 1944. Before veterans could receive benefits, states were required to approve programs of education in all educational institutions serving veterans. During the decade following the GI Bill's inception, state governments were introduced to the unregulated for-profit educational sector.

In 1957 the Legislature required the EAB to investigate and oversee for-profit schools as a way to "prevent fraud and misrepresentation and to protect the general public." Changes in 1971 made it mandatory for "all proprietary schools" to be approved by the EAB before operating in the state of Wisconsin. The authority of the EAB was expanded in 1993 to include in-state, non-profit schools incorporated after January 1, 1992 and out-of-state, non-profit colleges and universities, the last time any substantive statutory changes were made.

During the last 20 to 30 years, the postsecondary institutions and programs regulated by the EAB have undergone dramatic changes. In the early 1970s, most if not all institutions approved by the EAB, offered programs with a vocational or trade objective, like basic business training, truck driving, electronics, and travel agent training. Historically, the kinds of institutions EAB regulated were adequately described by the statutory definition, which cited "private trade, correspondence, business and technical" schools.

While the EAB still approves many private institutions, which have a vocational or technical objective, the scope of its regulation has expanded to include degree-granting colleges and universities, certificate programs, distance-learning degrees and programs, and new licensure programs for home inspectors, massage therapists, and K-12 teachers.

Today, technology, the economic market place, and the rapidly changing needs of employers and employees are transforming postsecondary education and training. Because the proprietary sector must be highly responsive to the demands of its customers – working adults and their employers – this sector is driving the evolution of postsecondary education. This market-driven

reality means the EAB is faced with regulating new and constantly changing types of schools and programs.

While the content, structure, and delivery of programs offered by proprietary schools has been changing at an accelerating rate, the statutory provisions governing the EAB have not changed to meet this reality. For example, who would have predicted 25 years ago the following: for-profit universities like University of Phoenix or DeVry University; distance-learning via the Internet like Capella University and Franklin University; computer schools for Microsoft and Novell certifications; new licensed occupations like home inspectors and massage therapists; degree-completion programs offered to fit the needs of working adults like Upper Iowa University.

Perhaps the most telling example of changes in the proprietary sector that the EAB regulates is exemplified by Herzing College. Herzing College began in 1948 as the Wisconsin School of Electronics, a diploma-granting, non-accredited, technical program. Today, Herzing College is a regionally accredited institution offering associate and bachelor's degrees in Computer Information Systems, CAD Drafting, Computer Network and Security, Business and Administration, Homeland Security and Public Safety, a new RN nursing program, a total of some 20 majors and next year I understand plans on offering an MBA program.

In my professional life, I am the editor of The Career Education Review, a publication that monitors the trends, developments and most all aspects of the career college sector. As such I have spent over 30 years watching this sector of education mature and evolve.

Today, all sectors of higher education, including the career college sector, are being challenged as never before by students, parents and employers. Simply put tradition is on its way out in higher education and new models that include accessibility, accountability, transparency and a full range of outcomes reporting are being considered and debated throughout the country.

Lead by the efforts of Secretary of Education Margaret Spellings, and her Commission on the Future of Higher Education, vital public policy questions are being asked and frankly the debate within the various sectors of education is at times fierce. But perhaps all this is more easily

understood from the perspective of a parent or in the case of an adult student and their spouse is “are we getting the education we are paying for?” and in the end, “will this education lead to a better job and life?”

Wisconsin’s Educational Approval Board has gained a national reputation and is well-respected for its innovative and progressive work in this area. I truly believe that the EAB is showing the way nationally in terms of accountability and transparency reporting – all elements reflected in SB 174.

On a personal note, I have spend my career in this sector and serve on the EAB Board because I believe in career education and have seen first hand that good career schools change people’s lives and are a vital part of maintaining the economic strength of the state and nation as well as the standard of living we all enjoy.

Thank you.

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EDUCATION
FOR
EVERY
CHILD



State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

Senate Committee on Education
March 6, 2008

Department of Public Instruction Testimony on 2007 Senate Bill 174

Thank you to Chairperson Lehman and members of the committee for the opportunity to testify before you today. My name is Jennifer Kammerud. I am the legislative liaison for the Department of Public Instruction. The department is here to testify for information on Senate Bill 174.

The department testified in opposition to this bill's companion, AB 281, in the Assembly. Since that time our concerns with the bill were addressed in Assembly Amendment 1 to the substitute amendment. The department understands that the same language will be brought forward in an amendment to SB 174. This language reflects the department's authority over teacher education programs under current state statutes and rules. We would like to thank Senator Vinehout and Representative Nass, as well as David Dies of the Education Approval Board (EAB), for working with us to address our concerns.

It is the department's belief that without this amendment the bill would have infringed on the department's authority to oversee the quality of teacher training programs by giving similar authority with regard to certain private programs to the Educational Approval Board. The amendment also removes our concern that the bill would legislatively reverse a case that was already litigated, the *NORDA, Inc. vs. EAB* decision, which upheld the Department of Public Instruction's authority to approve Wisconsin teacher programs and accept out-of-state programs, including online programs, accredited by another state.

The DPI approves Wisconsin teacher programs, including alternative programs.

Under PI 34.06, DPI approves Wisconsin programs that lead to licensing of teachers, including alternative programs developed and approved under PI 34.17(6), such as *NORDA*. This bill, without the aforementioned amendment, would have reversed the *NORDA* decision and made alternative Wisconsin programs also subject to EAB approval. Individuals who pursued such programs for either initial licenses or renewal of licenses could have faced additional delay and uncertainty if those programs became subject to EAB approval in addition to DPI approval.

In the *NORDA* case, the court of appeals held that *NORDA* was not a "trade or technical school" subject to oversight by the EAB. According to the court, a "trade school" relates to "an occupation requiring manual or mechanical skill and training", not an occupation such as teaching. A "technical school" provides training below the bachelor degree level. Because *NORDA* was specifically designed for people who already had bachelor's degrees, the court said

it was not a technical school. Section 23 of the bill attempted to change this holding by expanding the definition of "schools" subject to EAB oversight to include "career, distance learning, or degree granting" schools. —

In NORDA, the court also held that even if NORDA was a "school" subject to EAB oversight, a statutory exception excludes from the EAB's oversight "schools approved by the DPI for the training of teachers." Section 30 of the bill repealed this DPI exception. This section was not obsolete, as has been suggested. The language continued to reflect DPI's appropriate role in approving teacher preparation programs. After World War I, two-year normal schools began to be replaced by four-year teacher's colleges. In 1971, Wisconsin began requiring that teachers earn a bachelor's degree in order to qualify for a license. Graduates of two-year normal schools were given a specified amount of time to earn a four-year degree in order to keep teaching. Teaching licenses were based on the completion of a pre-designed course of study at a college or university approved by DPI. This continues as the current standard in this state.

Further, section 29 of the bill repealed the exception which exempts from EAB approval "schools, courses of instruction, and training programs that are approved or licensed and supervised by other state agencies and boards." The trial court had pointed to this section as applicable to NORDA and DPI. Section 7 of SB 174 replaced this exception with "A school that another state agency or board is expressly authorized by statute to approve and supervise." EAB had argued in the NORDA case that DPI has no express authority to approve a "school", as opposed to a "program."

DPI may accept out-of-state programs, including online programs, accredited by another state.

Under PI 34.05(4), the department does not approve programs operating outside Wisconsin, but may accept out-of-state programs, including online programs, accredited by another state or jurisdiction. Without the amendment language passed by the Assembly and proposed to this bill, such online programs would also have been subject to EAB approval. Individuals who pursue out of state programs accredited by another state for either initial licenses or renewal of licenses could have faced additional delay and uncertainty if these accredited programs had become subject to EAB approval as well.

As discussed above, Section 23 of SB 174 expanded the definition of "schools" subject to EAB oversight to include "career, distance learning or degree granting" schools. That section also modified the definition of "schools" subject to EAB oversight to include "any person, whether located within or outside this state" that provides a listed program. Section 10 authorized the EAB to "establish standards and criteria for approving schools offering programs that are delivered primarily by distance learning." These changes combined with the repeals discussed above would further expand the definition of "schools" subject to EAB approval.

Under PI 34.05(4), the EAB approves all out-of-state programs operating in Wisconsin. Once approved by the EAB, the department determines whether the program may be approved under PI 34 as outlined above. Without the amendments being proposed to this bill, SB 174 would have expanded EAB's authority well beyond this limited role. Such an expansion would have duplicated and interfered with DPI's oversight of teacher training programs.

DPI is well equipped to protect students and provides an exhaustive review of program quality as part of our PI 34 program approval process. The existing separation of responsibility between DPI and EAB has worked well. There currently exists a careful partition in oversight authority between EAB and other agencies, like DPI. The reason that the current policy restricts EAB from the review of teacher education programs is to avoid overlap and potential conflict of direction based on different policy interpretations. The amendment language preserves the current separation of responsibility between EAB and the department.

Thank you. At this time I would be happy to answer any questions you may have.

